

the hearing officer upon the officer's own motion within 1 year of the notice of the hearing decision. Another hearing officer designated by CMS may reopen and revise the decision if the hearing officer who issued the decision is unavailable.

(c) *Decision of Administrator.* A decision by the Administrator that is otherwise final may be reopened and revised by the Administrator upon the Administrator's own motion within 1 year of the notice of the Administrator's decision.

(d) *Notices.* (1) The notice of reopening and of any revisions following the reopening is mailed to the parties.

(2) The notice of revision specifies the reasons for revisions.

§ 423.669 Effect of revised determination.

The revision of a contract or reconsidered determination is binding unless a party files a written request for hearing of the revised determination in accordance with § 423.651.

Subpart O—Intermediate Sanctions

§ 423.750 Kinds of sanctions.

(a) The following intermediate sanctions and civil money penalties may be imposed:

(1) Civil money penalties ranging from \$10,000 to \$100,000 depending upon the violation.

(2) Suspension of enrollment of Medicare beneficiaries.

(3) Suspension of payment to the Part D sponsor for Medicare beneficiaries who enroll.

(4) Suspension of all Part D plan marketing activities to Medicare beneficiaries for the Part D plan subject to the intermediate sanctions.

(b) The enrollment, payment, and marketing sanctions continue in effect until CMS is satisfied that the deficiency on which the determination was based is corrected and is not likely to recur.

§ 423.752 Basis for imposing sanctions.

(a) *All intermediate sanctions.* For the violations listed below, we may impose one, or more, of the sanctions specified in § 423.750(a)(2), (a)(3) or (a)(4) on any

Part D sponsor that has a contract in effect. The Part D sponsor may also be subject to other applicable remedies available under law.

(1) Fails substantially to provide, to a Part D plan enrollee, medically necessary services that the organization is required to provide (under law or under the contract) to a Part D plan enrollee, and that failure adversely affects (or is substantially likely to adversely affect) the enrollee.

(2) Imposes on Part D plan enrollees premiums in excess of the monthly basic and supplemental beneficiary premiums permitted under section 1860D-1 *et seq.* of the Act and subpart F of this part.

(3) Acts to expel or refuses to reenroll a beneficiary in violation of the provisions of this part.

(4) Engages in any practice that may reasonably be expected to have the effect of denying or discouraging enrollment of individuals whose medical condition or history indicates a need for substantial future medical services.

(5) Misrepresents or falsifies information that it furnishes—

(i) To CMS; or

(ii) To an individual or to any other entity under the Part D drug benefit program.

(6) Employs or contracts with an individual or entity who is excluded from participation in Medicare under section 1128 or 1128A of the Act (or with an entity that employs or contracts with an excluded individual or entity) for the provision of any of the following:

(i) Health care.

(ii) Utilization review.

(iii) Medical social work.

(iv) Administrative services.

(b) *Suspension of enrollment and marketing.* If CMS makes a determination that could lead to a contract termination under § 423.509(a), CMS may instead impose the intermediate sanctions in § 423.750(a)(2) and (a)(4).

§ 423.756 Procedures for imposing sanctions.

(a) *Notice of sanction and opportunity to respond—*(1) *Notice of sanction.* Before imposing the intermediate sanctions specified in paragraph (c) of this section, CMS—